

REMARKS

The Final Office Action mailed July 10, 2008 has been received and carefully noted. Claims 1-27 are currently pending in the subject application and are presently under consideration.

Claims 1, 3, 18, 20, and 25 have been amended herein. Claims 1 and 18 include aspects of claims 3 and 20 (indicated in the Final Office Action as having allowable subject matter). These claims have been amended to reduce the issues for appeal by incorporating what appears to be allowable subject matter into the independent claims. Entry is respectfully requested. Support may be found in at least paragraph 0034 of the Specification for the amendment to claim 25. Thus, no new matter has been introduced in this amendment and entry thereof is respectfully requested. A listing of claims can be found on pages 2-7 of this Response.

Favorable reconsideration of the pending claims is respectfully requested in view of the amendments and following comments.

I. Rejection of Claims 1, 18, and 25 Under 35 U.S.C. § 102(e)

Claims 1, 18, and 25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Brady, Jr. *et al.* (U.S. 2006/0010438) ("Brady"). It is respectfully requested that these rejections be withdrawn for at least the following reason. Brady does not describe each and every element of the claims.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that "*each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added). The Applicant notes with appreciation the Examiner's indication of allowable subject matter contained in dependent claims 3 and 20. Independent claims 1 and 18 have been amended to include aspects from claims 3 and 20, namely, "updating a database at the central storage to reflect modifications of the portion of the configuration" and "blocking reads of the configuration from the

database during the updating to reflect modifications of the portion of the configuration," respectively. The Applicant respectfully requests that the rejections of these claims be withdrawn.

The Applicant does not believe that the Examiner has established the anticipation of independent claim 25 based on Brady. To establish anticipation, "[w]hen a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified" (See MPEP § 706; 37 CFR § 1.104(c)(2)). The Examiner lists sections and elements of Brady on page 3 of the Final Office Action, but the Applicant cannot discern which sections and elements of Brady relate to the particular elements of independent claim 25. If the Examiner maintains this rejection, the Applicant requests that the Examiner clarify which teachings of Brady relate to which individual elements of the claims. The Applicant notes that an amendment has been made to independent claim 25.

In view of at least the foregoing, reconsideration and withdrawal of the rejections of independent claims 1, 18, and 25 are respectfully requested.

II. Rejection of Claims 2, 4-6, 10, 11, 17, 19, 21, 22, and 24 Under 35 U.S.C. § 103(a)

Claims 2, 4-6, 10, 11, 17, 19, 21, 22, and 24 stand rejected under 35 U.S.C. § 103(a) as being obvious over Brady and E *et al.* (U.S. 2004/0019639) ("E"). It is respectfully requested that these rejections be withdrawn for at least the following reason. Brady and E, alone or in combination, do not teach or suggest all the claim limitations expressly, impliedly, or obviously.

To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). See MPEP § 706.02(j). In particular, independent claim 11 recites:

A system comprising:

 a plurality of nodes each having an instance of a configuration manager to maintain consistent storage of a configuration across the nodes without passing configuration modifications between the nodes;

 a locking server shared by the plurality of nodes to coordinate access to the configuration; and

 a database management system to provide an interface with a shared relational database, the database to store the configuration.

The Examiner states that this claim is a corresponding apparatus claim "of claim 1-6 [sic] and 10; therefore, they are rejected under the same rationale." The Examiner then cites E for the aspect of a configuration manager, but does not specify which elements of Brady correspond to each element of the above independent claim (*See* Office Action mailed July 10, 2008, pg. 5).

As held in *In re Royka* and *In re Wilson*, **all claim limitations** must be taught or suggested in the prior art to establish *prima facie* obviousness. Even if Brady described each and every limitation of the method claims, *prima facie* obviousness of a system claim is not automatically established. Since the Examiner has not identified the particular aspects of Brady that correspond to each and every claim limitation of independent claim 11, *prima facie* obviousness has not been established.

In the Response to Office Action mailed January 25, 2008, the Applicant asserted the position that a combination of Brady and E is improper under MPEP § 2143 because such combination would change the principle of operation. In response, the Examiner stated benefits of modifying Brady with aspects of E (*See* Office Action mailed July 10, 2008, pg. 10). However, such benefits are irrelevant in view of the analysis in the previous Response that the combination changes the principle of operation and is still improper regardless of any benefits that may exist.

Claims 2, 4-6, 11, 17, 19, 21, 22, and 24 depend from one of independent claims 1, 11, and 18, thus incorporating the respective limitations thereof. The Examiner does not contend and the Applicants do not discern any part of E that cures the aforementioned deficiencies of Brady regarding independent claims 1 and 18. For the above reasons relating to the independent claims, Brady and E do not teach or suggest all the limitations of these dependent claims. Accordingly, it is respectfully requested that these rejections be withdrawn.

III. Rejection of Claims 7, 8, 12-14, 23, and 27 Under 35 U.S.C. § 103(a)

Claims 7, 8, 12-14, 23, and 27 stand rejected under 35 U.S.C. § 103(a) as being obvious over Brady, in view of E, and further in view of Vahalia *et al.* (U.S. 2005/0251500) ("Vahalia"). Each of claims 7, 8, 12-14, 23, and 27 depends from one of the independent claims, thus incorporating the respective limitations thereof. The Examiner does not contend and the Applicant does not discern any part of Vahalia that cures the aforementioned deficiencies of Brady and E with respect to the independent claims. Thus, Brady, E, and Vahalia, alone or in combination, fail to teach or suggest all the claim limitations of the dependent claims. Reconsideration and withdrawal of these rejections are respectfully requested.

IV. Rejection of Claims 9, 15, 16, and 26 Under 35 U.S.C. § 103(a)

Claims 9, 15, 16, and 26 stand rejected under 35 U.S.C. § 103(a) as being obvious over Brady, in view of E, and further in view of the Applicant's alleged admission of prior art. Each of claims 9, 15, 16, and 26 depends from one of the independent claims, thus incorporating the respective limitations thereof. The Examiner does not contend and the Applicant does not discern any part of the Applicant's alleged admission of prior art that cures the aforementioned deficiencies of Brady and E with respect to the independent claims. Thus, Brady, E, and the Applicant's alleged admission of prior art, alone or in combination, fail to teach or suggest all the claim limitations of the dependent claims. Reconsideration and withdrawal of these rejections are respectfully requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

Date: September 12, 2008

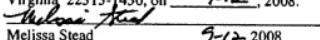


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Melissa Stead 9-12, 2008